

INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
THE STATE OF ARIZONA  
AND  
CITY OF APACHE JUNCTION

THIS AGREEMENT is entered into 15 March, 2002, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF APACHE JUNCTION acting by and through its MAYOR and CITY COUNCIL (the "City").

**I. RECITALS**

1. The State is empowered by Arizona Revised Statutes Section 28-6993(g) to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.

3. The State has approved the exchange of \$48,000.00 in Highway User Revenue Funds (HURF) to the City for **design** of improvements to Weekes Wash culverts, and such funds will be repaid to the State by withholding from the Central Arizona Association of Governments (CAAG) federal funds and the obligation authority for federal funds in the amount of \$60,854.00.

4. The State has approved the exchange of \$272,000.00 in Highway User Revenue Funds (HURF) to the City for the **construction** of improvements to Weekes Wash culverts and such funds will be repaid to the State by withholding from the Central Arizona Association of Governments federal funds and the obligation authority for federal funds in the amount of \$344,839.00.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows

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NO. 25172

Filed with the Secretary of State

Date Filed: 03/15/02

Betsy Boyless

Secretary of State

By: Valery V. Seamenwald

## II. SCOPE OF WORK

### 1. The City will:

- a. Provide design of the improvements contemplated for Weeks Wash culverts. Provide the State suitable documentation of design together with invoices.
- b. Be responsible for any additional funds required for design of the project, and for any claims for extra compensation for whatever reason. Comply with all applicable State laws, rules and regulations.
- c. Invoice the State in an amount not to exceed \$48,000.00 for reimbursement for the costs of design.
- d. Call for bids and award one or more construction contracts for the project. Administer same and make all payments to the contractor(s). Be responsible for any additional funds required to complete the project, and for any contractor claims for extra compensation due to delays or whatever reason.
- e. Invoice the State for thirty percent of the project construction cost, at the start of construction.
- f. Invoice the State for thirty percent of the project cost, at the thirty percent project completion state, and for thirty percent of the project cost at the sixty percent project completion state.
- g. Upon completion, approve and accept the project as complete and provide maintenance.
- h. Invoice the State for the remaining ten percent of the project cost at the one hundred percent project completion stage.

### 2. The State will:

- a. Within 30 days after receipt and approval of a design invoice, advance the City HURF funds in the amount of \$48,000.00 for design.
- b. Within 30 days after receipt and approval of construction invoices, advance the City HURF funds in the total amount of \$272,000.00 for construction.
- c. Withhold from CAAG, federal funds and the obligation authority of federal funds in the amount of \$60,854.00 for design.
- d. Withhold from CAAG, federal funds and the obligation authority of federal funds in the amount of \$344,839.00 for construction.

## III. MISCELLANEOUS PROVISIONS

1. The State assumes no liability under this agreement. The City assumes full responsibility for the acquisition of right of way, right-of-way plans, project design, plans and specifications, reports, construction and the engineering in connection therewith, cost over-runs and claims. It is agreed that the State's participation is confined solely to advancing highway user revenue funds; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the City and that the City hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the City, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, and court costs, expenses of litigation or attorneys' fees.

2. This agreement shall remain in force and effect until completion of said project; provided, however, that this agreement, except any provisions herein for maintenance, which shall be perpetual, unless assumed by another governmental entity, may be canceled at any time prior to the award of a construction contract, upon thirty (30) days written notice to the other party.

3. This agreement shall become effective upon filing with the Secretary of State.

4. This agreement may be canceled in accordance with Arizona Revised Statutes Section 38-511.

5. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

6. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

7. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation  
Joint Project Administration  
205 South 17 Avenue, Mail Drop 616E  
Phoenix, AZ 85007

City of Apache Junction  
City Engineer  
1001 N. Idaho Road  
Apache Junction, AZ 85219

8. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF APACHE JUNCTION, ARIZONA

By Douglas Coleman  
DOUGLAS COLEMAN  
Mayor

STATE OF ARIZONA

Department of Transportation

By Mary Lynn Fischer  
MARY LYNN FISCHER, Director  
Transportation Planning

ATTEST

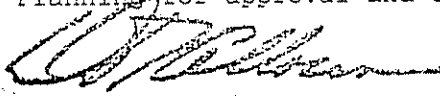
By Kathleen Connelly  
KATHY CONNELLY  
City Clerk

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RESOLUTION

BE IT RESOLVED on this 22nd day of July 2001, that I, the undersigned MARY E. PETERS, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona, that the Department of Transportation, acting by and through the Intermodal Transportation Division, to enter into an agreement with the City of Apache Junction for the purpose of defining responsibilities for the exchange of HURF funds for improvements to Weekes Wash Culverts.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Director of Transportation Planning for approval and execution.



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DAVID R. ALLOCCO, P E  
Assistant State Engineer  
Engineering Technical Group  
for Mary E. Peters, Director

APPROVAL OF THE APACHE JUNCTION CITY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, and the CITY OF APACHE JUNCTION and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

DATED this 1st day of December, 2001.

  
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City Attorney

CITY COUNCIL  
REGULAR MEETING  
JANUARY 15, 2002

The regular meeting of the City Council of the City of Apache Junction, Arizona, was held on January 15, 2002, at the Apache Junction City Council Chambers pursuant to the notice required by law.

CALL TO ORDER

Mayor Coleman called the meeting to order at 7:00 p m

INVOCATION

Vice Mayor Surra gave the Invocation.

PLEDGE OF ALLEGIANCE

Councilmember Milkey led the Pledge of Allegiance

ROLL CALL

Councilmembers Present: Mayor Coleman

Vice Mayor Surra

Councilmember Dietz

Councilmember Durbala

Councilmember Eck

Councilmember Milkey

Councilmember Urich

Staff Present:

Assistant City Manager George Hoffman

City Clerk Kathleen Connelly

City Attorney Joel Stern

Public Safety Director Robert Warner

City Engineer Ron Grittmann

Library Director Pam Loui

Public Works Director Doug Dobson

Development Services Director Dean Svoboda

Others Present: Senior Planner Rudy Esquivias  
Management Assistant Shari Watson  
Grants Specialist Roger Hacker  
Assistant to the City Manager Bryant Powell  
Parks Superintendent Nick Blake

ACCEPTANCE OF CONSENT AGENDA )

) Vice Mayor Surra MOVED THAT THE  
CONSENT AGENDA BE ACCEPTED AS PRESENTED: AND THAT WE RECOGNIZE THE  
OUTSTANDING SERVICE TO THE COMMUNITY BY THE FOLLOWING CITY EMPLOYEES: THE  
PARKS AND RECREATION DEPARTMENT FOR THEIR FUNDRAISING EFFORTS IN THE PHOENIX  
RIDE FOR KIDS; THE PARKS AND RECREATION DEPARTMENT FOR THEIR PLANNING AND  
IMPLEMENTATION OF THE POST PARADE CHRISTMAS ACTIVITY AT THE CHAMBER FACILITY;  
AND SERGEANT RICHARD VIRGIL AND LIBRARY DIRECTOR PAM LOUI FOR THEIR  
SUCCESSFUL COMPLETION OF THE CERTIFIED PUBLIC MANAGER PROGRAM; AND

THAT RESOLUTION NO. 01-24, A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE  
CITY OF APACHE JUNCTION, ARIZONA, AUTHORIZING THE SUBMITTAL OF AN APPLICATION  
FOR THE ARIZONA DEPARTMENT OF COMMERCE GROWING SMARTER PLANNING GRANT PROGRAM  
TO PROVIDE FINANCIAL ASSISTANCE FOR A GENERAL PLAN UPDATE IN COMPLIANCE WITH  
THE GROWING SMARTER STATUTES, BE APPROVED, AND

THAT PAMELA STOELK BE APPOINTED TO THE LIBRARY BOARD FOR A TERM EXPIRING JUNE  
30, 2004; AND

THAT DAN AUSTIN BE APPOINTED TO THE SUPERSTITION MOUNTAIN COMMUNITY  
FACILITIES DISTRICT BOARD OF DIRECTORS FOR A TERM TO EXPIRE JULY 7, 2004; AND

THAT THE PROFESSIONAL SERVICES AGREEMENT WITH KIRKHAM MICHAEL CONSULTING  
ENGINEERS FOR THE DESIGN OF HANDICAP ACCESSIBLE INTERSECTIONS AT NINE  
LOCATIONS WITHIN THE CITY LIMITS BE APPROVED IN THE AMOUNT OF \$10,818.00 PLUS  
10% IN THE AMOUNT OF \$1,081.80 IN THE EVENT OF UNFORESEEN CHANGE ORDERS FOR A  
TOTAL AMOUNT OF \$11,898.80; AND

THAT THE AWARD OF BID FOR PROJECT PW 2001-34, MATERIAL AND LABOR TO ADJUST  
MANHOLES AND VALVES ON BROADWAY AVENUE FROM MERIDIAN DRIVE TO IDAHO ROAD, BE  
AWARDED TO SPECIALTY CONTRACTORS OF ARIZONA IN THE AMOUNT OF \$19,985.00 PLUS  
10% IN THE AMOUNT OF \$1,998.50 IN THE EVENT OF UNFORESEEN CHANGE ORDERS FOR A  
TOTAL AMOUNT OF \$21,983.50; AND

THAT APPROVAL BE GIVEN FOR THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE STATE OF ARIZONA AND THE CITY OF APACHE JUNCTION FOR DESIGN AND CONSTRUCTION OF IMPROVEMENTS TO WEEKES WASH CULVERTS USING HIGHWAY USER REVENUE FUNDS (HURF). FUNDED THROUGH THE CENTRAL ARIZONA ASSOCIATION OF GOVERNMENTS: AND THAT AUTHORIZATION BE GIVEN FOR THE MAYOR TO SIGN THE AGREEMENT: AND

THAT RECEIPT OF THE COMPREHENSIVE ANNUAL FINANCIAL REPORT FOR THE CITY OF APACHE JUNCTION FOR THE FISCAL YEAR ENDING JUNE 30, 2001, BE ACKNOWLEDGED.

Councilmember Urich SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

#### AWARDS, PRESENTATIONS AND COMMUNICATIONS

None.

#### CALL TO THE PUBLIC

Mr. Elliott Fisher, 547 E. Quail, Apache Junction. Greater Apache Junction Association for Effective Government, addressed the council regarding his opinion of honesty and integrity in the city, his concern on the 80' freeway sign for the Earnhardt development, a request to put the sign to a public vote, a request to put more information on the agenda regarding consent agenda items and to have consent agenda items that are bid awards moved to public hearings.

Mr. Michael Weller, 471 W. 21st Avenue, Apache Junction, addressed the council regarding having a citizens' committee review the ordinances as there are many that have not been updated since 1985. He would like to see something in the ordinances regarding disciplinary increments.

#### CITY MANAGER'S REPORT

None.

#### PUBLIC HEARINGS





STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

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JANET NAPOLITANO  
ATTORNEY GENERAL

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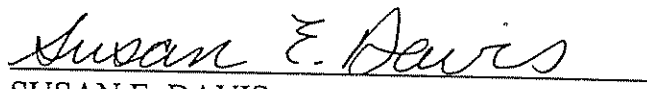
**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. KR01-1649TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED March 12, 2002.

JANET NAPOLITANO  
Attorney General

  
SUSAN E. DAVIS  
Assistant Attorney General  
Transportation Section

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